

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
BIG STONE GAP DIVISION**

JIMMY L. HERRON,)
Plaintiff)
)
v.) Case No. 2:04cv00102
)
JO ANNE B. BARNHART) <u>ORDER</u>
COMMISSIONER OF SOCIAL)
SECURITY,) By: PAMELA MEADE SARGENT
Defendant) United States Magistrate Judge

By order entered May 4, 2005, this court ordered that the plaintiff file written arguments addressing why the Commissioner's decision is not supported by substantial evidence by May 13, 2005. This order notified the plaintiff that, if he failed to file written arguments by this date, his case would be dismissed. To date the plaintiff has not filed any written arguments. Despite the plaintiff's failure to comply with the court's order, the undersigned has reviewed the administrative record in its entirety, including the arguments presented by the plaintiff's previous counsel to the Appeals Council. Based on this review, the undersigned finds that substantial evidence supports the Commissioner's decision denying benefits. Accordingly, it is **ORDERED** that the Commissioner's decision denying benefits is **AFFIRMED**.

The Clerk is directed to send a certified copy of this Order to all counsel and unrepresented parties of record. The Clerk is directed to close the case.

ENTER: May 19, 2005.

/s/ Pamela Meade Sargent
UNITED STATES MAGISTRATE JUDGE